

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

NORTHERN STATES POWER, A WISCONSIN
CORP., d/b/a XCEL ENERGY

Employer/Petitioner

and

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 953

Union

Case 18-UC-383

DECISION AND ORDER

The Employer/Petitioner seeks to clarify the existing bargaining unit to exclude the position of System Dispatcher I, contending that those individuals are supervisors within the meaning of Section 2(11) of the Act and therefore should be excluded from the existing bargaining unit. Based on an administrative investigation, I conclude that the petition should be dismissed. The basis for my conclusion is that the petition is untimely filed.

Under Section 3(b) of the Act, I have the authority to decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this case, I find:

1. The Employer/Petitioner is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

2. The Employer/Petitioner is party to a collective bargaining agreement with the Union, the term of which is January 1, 2000 to December 31, 2004. It recognizes the Union as the representative of “. . . employees whose classifications are shown in Article III of this Agreement” Article III includes a wage rate for the job classification of System Dispatcher I. There are six employees in the position, all of whom work at the Employer/Petitioner’s Eau Claire, WI location.

The Union contends that a dispatcher position has been included in the bargaining unit since its first agreement with the Employer/Petitioner dating back to 1937. On January 29, 1976, in Case 18-RC-10755, the Region issued a Certification of Representative certifying the Union as the collective bargaining representative of electric load dispatchers, system supervisors and system coordinators employed by the Employer/Petitioner at its Eau Claire, LaCrosse and Amery, WI locations. According to the Union, the parties reached a May 1, 1976 addendum to the 1976 master agreement dealing with the newly certified unit. That addendum provided that the former electric load dispatchers, system supervisors and system coordinators be reclassified to a dispatcher classification, which was added to the master agreement. In 1984 the parties reached a reorganization agreement which, among other things, established two

¹ The Employer, Northern States Power, a Wisconsin Corp., d/b/a Xcel Energy, is a Wisconsin corporation with a principal office and place of business located in Eau Claire, WI. The Employer is a public utility providing gas and electrical service to residential and commercial customers in the upper Midwest. During the past twelve months, the Employer has purchased and received at its Wisconsin facilities goods and services valued in excess of \$50,000 directly from sources and suppliers located outside the State of Wisconsin. Within the same period, the Employer has realized gross revenues from the sale of goods and services in excess of \$500,000.

classifications of dispatchers – System Dispatcher I and System Dispatcher II² -- and the job duties for each classification. Quite apart from these historical developments, it is clear, as established by the Employer/Petitioner's position statement and the existing collective bargaining agreement, that the Employer/Petitioner currently recognizes the Union as the exclusive collective bargaining representative of the System Dispatcher Is and the parties have negotiated a specific wage rate for them.

There is no claim by either party of recent or substantial changes in the duties and responsibilities of the six individuals currently occupying the System Dispatcher I position. Also, the Employer/Petitioner does not contend that it has reserved the right to seek exclusion of the System Dispatcher I position during negotiations for the current collective bargaining agreement.

On the basis of the foregoing and the entire file in this case, I conclude that the Employer/Petitioner's petition should be dismissed. As set forth above, it appears a dispatcher position has been included in the unit since 1937; the currently-titled position of System Dispatcher I has been included in the bargaining unit since 1984; and that job classification is indisputably included in the unit currently recognized by the Employer/Petitioner. Further, there is no evidence of recent or substantial changes in the duties and responsibilities of the individuals occupying the System Dispatcher I position, and the Employer/Petitioner does not contend it reserved the right to seek the exclusion during negotiations. In these circumstances, the petition for unit clarification is untimely. Regardless of the supervisory status of the System Dispatcher Is, the parties have agreed to include them in the unit and have negotiated a specific wage

² The job classification of System Dispatcher II is not in issue in the instant case.

rate for them. For this reason, it would be disruptive and inappropriate to process the petition seeking to exclude the System Dispatcher Is, as it would undermine the established bargaining relationship between the Employer/Petitioner and the Union. Accordingly, I shall dismiss the petition herein.³

ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.⁴

Signed at Minneapolis, Minnesota, this 14th day of April, 2003.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
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³ Edison Sault Electric Company, 313 NLRB 753 (1994) and Arizona Electric Power Cooperative, Inc., 250 NLRB 1132 (1980).

⁴ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 – 14th Street NW, Washington, DC 20570. This request must be received by the Board in Washington by **April 28, 2003**.